

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION DIVISION OF WATER WASTEWATER DISCHARGE PROGRAM

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XXXXXX, 2005

File #2612.62.001

Mr. Paul C. Jones
Mystery Creek Resources, Inc.
2221 East Street, Suite 200
Golden CO 80401

**Certified Mail #
Return Receipt Requested**

Subject: Waste Management Permit 2003-DB0055, Nixon Fork Mine

Dear Mr. Jones:

The Alaska Department of Environmental Conservation has completed its evaluation of your Waste Management Permit application for the disposal of wastes from the Nixon Fork Mine project, as detailed in your application materials and in the attached permit. The attached permit covers disposal of waste to the Tailings Storage Facility (TSF), underground mine workings, the Filtered Tailings Disposal Site (FTDS), surface landfill solid waste facilities, land application of wastewater and the groundwater and surface water monitoring systems. This permit also covers hazardous chemical storage and containment, and reclamation and closure activities related to the facility. The attached permit is issued under the provisions of Alaska Statute 46.03, and the Alaska Administrative Code, 18 AAC 15, 18 AAC 60, 18 AAC 70, and 18 AAC 72, as amended or revised, and other applicable state laws and regulations. The attached permit incorporates the Nixon Fork project's November 1994 Solid Waste Permit Application, the 1995 Solid Waste Permit Application Addendum, the 2004 Solid Waste Permit Application Addendum, Plan of Operations, Reclamation Plan and the 2005 Monitoring Plan. Please review the conditions and stipulations in this permit and ensure that they are all understood. This permit is effective _____, 200_, and expires _____, 200_.

Any person who disagrees with this decision may request an adjudicatory hearing in accordance with 18 AAC 15.195- 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of receipt of the permit decision. An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

Clean Air, Clean Water

Sincerely,

Gretchen Keiser
Program Manager
Wastewater Discharge Program

cc: Luke Boles, ADEC, Fairbanks
Cam Leonard, AG, Fairbanks
Jim Vohden, DNR, Fairbanks
Ed Fogels, ADNR, Anchorage
Mac McLean, ADNR/OHMP,
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Consulting



STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
610 UNIVERSITY AVE.
FAIRBANKS, AK 99709-3643

WASTE MANAGEMENT PERMIT

For
The Nixon Fork Mine

Permit No. 2003-DB0055

Date: XXXXX, 2005

This Waste Management Permit is issued to Mystery Creek Resources, Inc., 2221 East Street, Suite 200, Golden CO 80401, for the disposal of wastes as defined in Section 1.2 of this permit, from the Nixon Fork Mine. The facilities are located approximately 32 miles northeast of McGrath, AK, within Sections 13, T26S, R21E, Kateel River Meridian. This permit is issued under the provisions of Alaska Statutes 46.03, and the Alaska Administrative Code, 18 AAC 15, 18 AAC 60, 18 AAC 70 and 18 AAC 72, as amended or revised, and other applicable state laws and regulations. This permit is effective _____, 200_ and expires _____, 200_. It may be terminated or modified in accordance with AS 46.03.120.

This permit is subject to the conditions and stipulations contained in Sections 1 - 5. This permit incorporates by reference the Nixon Fork project's November 1994 Solid Waste Permit Application, the 1995 Solid Waste Permit Application Addendum, the 2004 Solid Waste Permit Application Addendum, Plan of Operations and Reclamation Plan and the 2005 Nixon Fork Mine Monitoring Plan. Changes to the documents incorporated herein must be approved by the Department if they affect this permit. If the Department approves the changes, they become part of this permit.

The Department requires the permittee to conduct post-closure maintenance and monitoring for a minimum of 30 years after closure. The permittee shall assess the conditions at the facility and respond accordingly throughout the post-closure care period. At the end of the post-closure period, the Department will determine whether post-closure care and monitoring should be extended beyond 30 years, based upon the information collected by that time.

DRAFT

Gretchen Keiser
Program Manager
Wastewater Discharge Program

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1 SPECIFIC PERMIT CONDITIONS

1.1 INTRODUCTION

1.1.1 This permit covers the Tailings Storage Facility (TSF), underground mine workings, the Filtered Tailings Disposal Site (FTDS), surface landfill solid waste facilities, land application of wastewater and the groundwater and surface water monitoring systems. This permit also covers hazardous chemical storage and containment, and reclamation and closure activities related to the facility.

1.1.2 This permit covers disposal of mine tailings during three mine operating phases consisting of different ore milling scenarios and tailings disposal options.

Phase I: For approximately six months (May-October) during year 1 and year 2, and possibly two months of year 3 during operations; 350 tonnes per day of tailings contained in the TSF will be dredged, reprocessed, filtered, and placed in the FTDS.

Phase II: For approximately twelve months 150 tonnes per day of ore from the underground workings will be mined, processed, filtered, and placed in the FTDS.

Phase III: For the remainder of the project life, after inspection of and any necessary repair to the TSF liner, 150 tonnes per day of ore will be mined, processed, and placed in the lined, no-discharge TSF.

1.1.3 In addition to the stipulations in this permit, the permittee shall adhere to the requirements of 18 AAC 60 Solid Waste Management Regulations as applicable, 18 AAC 70 Alaska Water Quality Standards, and 18 AAC 72.500–600 Non-Domestic Wastewater. The permittee shall also adhere to requirements of the Nixon Fork Project Plan of Operations and Reclamation Plan, Monitoring Plan and the Nixon Fork Project Quality Assurance Project Plan as approved by the Department.

1.1.4 During the period beginning on the effective date of this permit and lasting through the expiration date, the permittee is authorized to dispose of solid waste and wastewater as specified in this permit into the lined TSF, the underground mine workings, the FTDS, land application areas and the surface landfill at the Nixon Fork project.

1.2 LIMITATIONS

1.2.1 The waste materials covered under this section are limited to a facility maximum of 275,000 tonnes of reprocessed and new ore tailings disposal, meeting the conditions in this permit, deposited into the FTDS. New ore tailings disposal into the lined, no-discharge TSF is limited to a facility maximum of 470,000 tonnes

meeting the conditions in this permit.

1.2.2 The following materials may not be disposed into the surface landfill, the TSF, the FTDS or the underground facilities, unless otherwise provided or approved in writing by the Department:

- 1.2.2.1 Other than recycled process water sent to the TSF or interstitial waters entrained in the tailings; treated or untreated process water in quantities or concentrations that would exceed water quality standards in 18 AAC 70.
- 1.2.2.2 Chemical containers (unless triple rinsed), and discarded, unused chemicals.
- 1.2.2.3 Uncombusted household waste.
- 1.2.2.4 Laboratory wastes other than wash waters, neutralized acids and neutralized bases.
- 1.2.2.5 Sewage solids that are untreated and/or have less than 10% solids by weight.
- 1.2.2.6 Asbestos waste.
- 1.2.2.7 Hazardous wastes, as defined by 40 C.F.R. Part 261, including radioactive material, explosives, strong acids and untreated pathogenic waste. This prohibition does not preclude disposal of residual wastes included as byproducts of the beneficiation process due to recycling of refinery slag, fire assay crucibles and cupels.
- 1.2.2.8 Fuels, oil, transformers, paint and/or associated equipment and packing material.
- 1.2.2.9 Glycol and solvents.
- 1.2.2.10 Batteries.
- 1.2.2.11 Tailings exposed cyanide during ore processing except when subjected to cyanide destruction as required by section 1.2.3.

1.2.3 Prior to disposal of tailings exposed to cyanide during ore processing the tailings shall be subjected to cyanide destruction using the SO₂ /air process or other suitable cyanide destruction process approved by the Department. At least 90% of the samples shall contain less 10mg/kg of WAD cyanide and none of the samples shall contain more than 25 mg/kg of WAD cyanide.

1.2.4 The permittee shall not place filtered tailings in the FTDS with greater than 15%

moisture content.

- 1.2.5 Washwater from the vehicle maintenance shop may go into the tailings disposal facility. Oily water must go through an oil/water separator and the treated water may not have a sheen prior to entering the tailings disposal facility. Dry methods of cleanup shall be used for initial cleanup of oil spills in the maintenance shop.
- 1.2.6 Activities at the site which will cause a greater amount of waste material to be treated and disposed of, above that contemplated in this section of the permit, are prohibited without the prior approval by the Department.
- 1.2.7 The water in the groundwater monitoring wells, located below the toe of the TSF dam, must not exceed the State Water Quality Standards (18 AAC 70) or show a statistically significant increase in concentration above the applicable WQS, including natural condition, for the parameters monitored. If these standards are exceeded or if a statistically significant change above the WQS is detected, the corrective action outlined in section 1.8 must be implemented.
- 1.2.8 The limitations in section 1.2 do not preclude, and authorization is hereby given for, disposal of non-hazardous incidental wastes such as (i) settled solids from sumps, ditches, and degritting basins; (ii) incinerator ash and residue; (iii) ash from combustion of scrap wood material; (iv) iron (drill steel, balls, empty case, etc.); (v) used ventilation tubing; (vi) empty plastic and glass containers; (vii) inert domestic waste; (viii) construction debris; (ix) tires; (x) spill cleanup debris approved by the Department; (xi) non-terne plated used oil filters that have been gravity hot-drained; and (xii) such other material as would otherwise be disposed of in a surface landfill without special handling.
- 1.2.9 The Department may set or modify permit conditions based on monitoring results or changes in facility processes, after consultation with the permittee, in accordance with permit amendment or modification procedures.

1.3 SITE MAINTENANCE

- 1.3.1 Information on engineering changes to the mill, new waste treatment processes, changes to waste disposal facilities, changes to the groundwater monitoring well system, and addition of new point sources that discharge into the TSF or FTDS must be submitted to the Department and approval must be obtained prior to any such changes or discharges.
- 1.3.2 The permittee must provide and maintain secondary containment for all process piping and chemical mix tanks containing hazardous or toxic materials. Secondary containment is considered to be 110% of the largest tank within one containment, or the total volume of manifolded tanks. The permittee must design and install secondary containment structures in a manner that ensures that solid waste and leachate will not escape from the structures. Facilities to prevent such discharges

shall be maintained in good working condition at all times by the permittee.

- 1.3.3 Secondary containment of all hazardous substances as defined at AS 46.03.826(5) must be impermeable to those stored hazardous substances.
- 1.3.4 The permittee must design all process piping and chemical mix tanks to allow for routine inspections for leaks. Process piping outside of the mill building must not be buried unless secondary containment is used that provides the ability to inspect for leaks. This stipulation does not apply to the recycle water return lines leading from the TSF to the mill.
- 1.3.5 The permittee shall develop the site in accordance with the plans submitted by the applicant as required by this permit and approved by the Department, and approved amendments to those plans. Pollution prevention concepts shall be incorporated into operations plans for the project.

1.4 SITE CONSTRUCTION AND OPERATION

- 1.4.1 The permittee shall establish, update and maintain proof of financial responsibility in accordance with section 1.11 of this permit.
- 1.4.2 The freeboard limit of 3 feet in the TSF shall be maintained to minimize overtopping as indicated in the Operation, Maintenance and Emergency Action Manual approved by ADNR, Division of Mining, Land and Water, Dam Safety and Construction Unit.
- 1.4.3 The permittee shall ensure that wastes are deposited into the TSF in a manner that will not damage the impermeability of the liner, or otherwise jeopardize the integrity of the liner.
- 1.4.4 The permittee shall take reasonable measures to control particulates that may occur from tailings disposal facilities, roads, the airstrip or other mine components by wetting or other effective measures.
- 1.4.5 The permittee shall prevent disposal of waste materials from exceeding the design capacity of the disposal facilities.
- 1.4.6 The permittee shall minimize run-on water from entering the TSF, FTDS and the surface landfill from upgradient sources of surface and groundwater.
- 1.4.7 The permittee shall control and treat surface water, groundwater and leachate as necessary to prevent off-site water quality exceedences, shall not place solid waste in water in the FTDS and the surface landfill, and shall not allow solid waste to wash away from the facility.
- 1.4.8 The permittee must notify the Department in writing at least 15 days before the

introduction of a new chemical into the process or waste treatment streams. Material Safety Data Sheets on new chemicals must be forwarded to the Department and maintained on site.

- 1.4.9 The permittee must submit plans to the Department and receive approval of any changes that will significantly modify the quality or quantity of a discharge, significantly modify the operation of a waste treatment component, or significantly modify the disposal facilities, at least 60 days before construction of the modification.
- 1.4.10 The permittee must notify the Department in writing at least 15 days before the introduction of process solutions into an existing process or waste treatment component that has been significantly modified.
- 1.4.11 The permittee must submit to the Department within 90 days after completing construction of a significant modification to an existing process component:
 - 1.4.11.1 As built drawings of the process component(s) which show any changes of those aspects that would affect performance of that process component as required in 18 AAC 72.600.
 - 1.4.11.2 A summary of the quality control activities that were carried out during construction.
 - 1.4.11.3 The final operating plans that reflect modifications made during construction.
- 1.4.12 The permittee shall maintain fuel handling and storage facilities in a manner, which will prevent the discharge of hazardous substances. A Spill Prevention, Control and Countermeasures (SPCC) plan shall be in effect according to provisions of 40 C.F.R. Part 112 for facilities storing 660 gallons of fuel in a single container above ground, 1320 gallons in the aggregate above ground, or 42,000 gallons below ground.
- 1.4.13 The permittee shall notify the Department of a discharge of any hazardous substance at the facility in conformance with 18 AAC 75, Article 3. Reportable spills include unplanned discharges of process chemicals to the tailings disposal facilities (TSF or FTDS) which would violate limitations in this permit.
- 1.4.14 Using best efforts, the permittee shall develop spill response plans for the transportation of hazardous substances, including petroleum products, by the permittee to the facility and shall require other transporters of these substances under contract with the permittee to make such spill plans available to the permittee and/or the Department. Upon request from the Department, the permittee shall provide copies of such plans.
- 1.4.15 The permittee shall cover disposed solid waste in the surface landfill with six

inches of earthen material, or an alternate material approved by the Department, as needed to control disease vectors, fire, odor, blowing litter, and scavenging.

- 1.4.16 The permittee shall apply an intermediate cover to any inactive portion of the surface landfill within seven days after the waste is last deposited in that area, using a soil material at least 12 inches thick and graded to prevent water from ponding.

1.5 LAND APPLICATION OF WASTEWATER

- 1.5.1 Waste materials authorized to be land applied under this permit are limited to wastewater from the TSF which meets the limits in the following table:

| Parameter | Concentration (mg/L) |
|-------------------------|------------------------------|
| Al | 0.1 |
| As | 0.21 |
| Cd | 0.001 |
| Cr | 0.12 |
| Cu | 0.7 |
| Fe | 1.0 |
| Hg | 0.014 |
| Mn | 0.05 |
| NO ₃ | 10 |
| Ni | 0.3 |
| Pb | 0.009 |
| Se | 0.005 |
| Ag | 0.58 |
| Zn | 0.244 |
| WAD Cyanide | 0.2 |
| | |
| Maximum loading to land | 3.5 million gallons per acre |

These limits are required to ensure that the Water Quality Standards are met in the ground water. Wastewater must be sampled each season prior to discharge, and the limits in the above table met, before the treated water may be applied to the land.

- 1.5.2 The pH of the wastewater will be adjusted to between 6.5 and 8.5 before discharge.
- 1.5.3 Upon meeting the conditions of sections above, and all other permit conditions, the wastewater may be disposed of by dispersal to a land application area in a manner that will prevent erosion and promote absorption.
- 1.5.4 Land application shall not occur during frozen or saturated soil conditions.

- 1.5.5 The permittee shall land apply wastewater to disturbed ground to the extent practicable (e.g. watering of roads and airstrip during dry weather). When land applying wastewater to vegetated areas the permittee shall conduct daily visual monitoring of the vegetation in the land application area for signs of stress. If vegetation in the area of the land application appears to be stressed the permittee shall discontinue the land application and move to another area.
- 1.5.6 The land application of wastewater shall not result in a direct overland discharge to surface waters. Daily visual inspections shall be conducted when wastewater is being land applied to ensure that runoff from the land application is not occurring.
- 1.5.7 Any area of open water, or soil in the land application area, must not become an attractive area for waterfowl or shorebirds. Any wildlife casualties shall be reported to the Department and to the appropriate state and federal agencies.

1.6 MONITORING

- 1.6.1 The Monitoring Plan submitted on September 7, 2005, by Mystery Creek Resources, Inc., and approved by the Department, is incorporated into this permit. Approved changes to project monitoring will be included as modifications to the Monitoring Plan and do not require reissuance or modification of this permit. The permittee shall establish and maintain monitoring procedures as follows:
 - 1.6.1.1 Weekly visual monitoring of the facilities for signs of damage or potential damage from settlement, ponding, leakage, erosion or operations at the site. Visual monitoring shall be documented.
 - 1.6.1.2 Quarterly groundwater analyses for parameters listed in the Nixon Fork Monitoring Plan at MW-1 and MW-2, which will ensure that sample results are representative and statistically valid.
 - 1.6.1.3 Monitoring of the slurry tailings and filtered tailings prior to placement in the TSF or FTDS to ensure that the limitations contained in sections 1.2.3 and 1.2.4 are met.
 - 1.6.1.4 Monitoring of the TSF pond water prior to land application to ensure the limits in sections 1.5.1 and 1.5.2 are met.
 - 1.6.1.5 A fluid management monitoring plan including a water accounting of process water discharged to the TSF, process water discharged to the FTDS, process water land applied and process water recycled to the mill.
 - 1.6.1.6 Monitoring of waste rock and tailings samples to ensure that there is low potential for production of leachate that is acidic and/or contains elevated

levels of metals.

- 1.6.1.7 Daily visual monitoring of land applied wastewater, during periods of land application, to ensure the runoff is not occurring and that vegetation is not adversely affected.
- 1.6.2 The Monitoring Plan submitted on September 7, 2005, by Mystery Creek Resources, Inc., and approved by the Department, includes a Quality Assurance Project Plan. The permittee shall maintain and update the QAPP to include the following:
 - 1.6.2.1 Adhere to conditions in the ADEC approved Nixon Fork Project QAPP Quality Control and Quality Assurance Objectives sections. The QAPP will reflect the current sampling program for the land application of wastewater and solid waste components of the mine facility. Any significant changes in the QAPP procedures shall be submitted to the Department for approval.
 - 1.6.2.2 Ensure samples are analyzed by a laboratory that follows EPA-approved procedures, quality control requirements, reporting and documentation procedures. The QAPP, containing quality control procedures and criteria, analytical methods, detection limits and reporting requirements pertinent to the permit holder's samples, shall be submitted to the Department for approval and must be updated annually and whenever changes to methods or changes in the laboratories used occur.
 - 1.6.2.3 Analyze collected samples using methods set out in EPA-600/4-79-020 Methods for Chemical Analysis of Water and Wastes; EPA-600/4-82-057 Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater; Standard Methods for the Examination of Water and Wastewater (edition in effect at the time of sampling); or other methods approved by the Department. Each result must be accompanied by a reference, such as the method number, to the method that was used to perform the analysis.
 - 1.6.2.4 Conduct inspections of the TSF in conformance with the Operations, Maintenance and Emergency Action Manual approved by ADNRR, Division of Mining, Land and Water, Dam Safety and Construction Unit.
- 1.6.3 Samples taken as required by section 1.6.1 shall be analyzed in conformance with the most recent Monitoring Plan and QAPP submitted by Mystery Creek Resources, Inc., as approved by the Department.
- 1.6.4 A sample from any ground water well or surface water monitoring location that has a positive result for cyanide concentration shall be reported to ADEC as soon

as possible, but no later than the end of the next working day. Resampling for sample confirmation shall be performed as soon as practicable.

- 1.6.5 The permittee shall maintain a log of waste disposed into the TSF, FTDS, underground mine workings and the surface landfill for all wastes. The log shall include the date of disposal, estimated volume of waste and a description of the waste. A summary shall be included in the annual report required in section 1.7.
- 1.6.6 Maintenance of inspection and sampling logs, and procedures for processing, consolidating and reporting inspection and sampling data shall be in conformance with the most recent Monitoring Plan and QAPP submitted by Mystery Creek Resources, Inc., as approved by the Department.
- 1.6.7 Groundwater monitoring and corrective action shall be in accordance with section 1.8, 18 AAC 60 Solid Waste Management Regulations, and the most recent Monitoring Plan and QAPP submitted by Mystery Creek Resources, Inc., as approved or modified by amendment to this permit.
- 1.6.8 The Department may modify monitoring requirements, including the establishment of additional compliance points in response to trends showing changes in the concentration of parameters being monitored.
- 1.6.9 If the permittee monitors any influent, effluent, receiving water, air or solid waste characteristic in addition to those identified in this permit, or more frequently than required, the results of such monitoring shall be available for inspection by the Commissioner or his/her representative at the project site, or other location proposed by the permittee and agreed upon by the Department. The permittee shall provide copies of the results to the Department upon request.

1.7 REPORTING

- 1.7.1 For each year of sample collection and analysis, the permittee shall submit to the Department quarterly monitoring reports, for a total of three quarterly reports each year, and one annual monitoring report, which includes the fourth quarter monitoring data, summarizing the inspection and monitoring results set out in section 1.6. All quarterly reports shall be submitted to the Department no later than 60 days after the last day of the quarter. The annual report will be due annually on March 1st and summarize the calendar year. Copies of the laboratory reports should be submitted with the quarterly reports for the first year of data collection and analysis, or for the first year after a change of laboratory is made. Electronic copies of reports shall be submitted to the Department using commercially available software along with the hard copies.

- 1.7.1.1 Quarterly reports for quarters in which a land application of wastewater occurred shall include a section with the following information:

- 1.7.1.1.1 The total amount of solution applied and a map showing the areas of application.
- 1.7.1.1.2 The total hydraulic loading rate per acre.
- 1.7.1.2 The total metals loading per acre, for each parameter in section 1.5.1, for the reported land application.
- 1.7.1.3 The cumulative metals loading per acre for each parameter. This includes all past land application events.
- 1.7.2 Quarterly and annual reports required in section 1.7.1, shall include information necessary to determine data validity and to determine data variations and trends, and any exceedence of limits contained in this permit, water quality standards or criteria (see section 1.1.3). All records and information which validate the QAPP, resulting from the monitoring activities required by this permit, including but not limited to all records of analyses performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation, shall be retained in Alaska for observation by the Department for three years. Upon request from the Department, the permittee shall submit certified copies of such records. The Department may at its discretion perform field and laboratory audits of monitoring activities.
- 1.7.3 The annual report required in section 1.7.1 shall also address the adequacy of the financial responsibility, including, but not limited to, inflation, significant changes in reclamation activity costs, concurrent reclamation, expansion or other changes to the operation of the facility.
- 1.7.4 The permittee shall maintain an updated Plan of Operations and Reclamation Plan, as required by BLM, showing site use and development plans, and shall provide the Department with copies of any amendments to that plan of operations affecting the waste disposal operations authorized by the permit.
- 1.7.5 Notifications and reporting as required under this permit shall be submitted to the Department at the following address:

Department of Environmental Conservation
Division of Water
610 University Avenue
Fairbanks, Alaska 99709-3643

Phone: (907) 451-2142

Knowingly making a false statement, by the permittee, the operator or other employees, including contractors, on any such report may result in the imposition of criminal penalties as provided for under AS 46.03.790.

1.8 CORRECTIVE ACTIONS

- 1.8.1 The permittee shall comply with 18 AAC 60.815 if the visual monitoring program in section 1.6.1.1 discovers damage or potential damage to the waste disposal-related facility that could lead to water quality violations.
- 1.8.2 The permittee shall comply with 18 AAC 60.820-860 if a statistically significant increase above background in water quality in any of the groundwater sampling locations is detected. Statistical significance shall be determined using one of the methods outlined in 18 AAC 60.830(h) and performance standards outlined in 18 AAC 60.830(i). The permittee shall comply with the notification requirements in 18 AAC 850(c) upon determination of a statistically significant increase above background water quality.
- 1.8.3 If a violation of water quality standards is detected at a surface water or groundwater monitoring station, or if an exceedence of the limits set out in section 1.2 is detected, the permittee shall:
 - 1.8.3.1 Orally notify the Department within 24 hours of receipt of monitoring results.
 - 1.8.3.2 Determine the extent of the exceedence.
 - 1.8.3.3 In consultation with the Department and documented in writing, implement a plan to determine the cause and/or source of the exceedence.
 - 1.8.3.4 Submit to the Department, within 7 working days after an exceedence is verified, a plan for corrective actions to prevent adverse environmental impacts and further exceedences of applicable water quality standards or permit limits.
 - 1.8.3.5 Implement the corrective action plan as approved by the Department.

1.9 TEMPORARY CLOSURE

- 1.9.1 A temporary closure shall be defined as a suspension of mining and milling activities for more than 90 days but less than three years. The length of time for a temporary closure may be extended beyond three years by written authorization from the Department. The permittee shall submit a conceptual temporary closure plan to the Department prior to commencement of tailings disposal operations at the site.
- 1.9.2 The permittee shall submit a specific temporary closure plan to the Department no later than ten days after a temporary closure has been initiated. The permittee is

encouraged to submit the specific plan immediately upon availability, and prior to commencement of the temporary closure if possible. The specific plan shall include the following:

- 1.9.2.1 The procedures, methods, and schedule to be implemented for the treatment, disposal, and/or storage of process water.
- 1.9.2.2 The control of surface and groundwater drainage to and from the facility and the surrounding area.
- 1.9.2.3 The control of erosion from the TSF, FTDS and surface landfill.
- 1.9.2.4 The secure storage of chemicals during the period of closure.
- 1.9.3 The Department shall have 15 days to review and approve or request modifications to the temporary closure plan.
- 1.9.4 Once a temporary closure plan has been approved, full implementation of the approved specific plan is required. The plan can be amended by submitting a revised plan to the Department for approval.
- 1.9.5 During temporary closure of the site, the permittee shall:
 - 1.9.5.1 Continue pollution control activities associated with the tailings disposal facilities, including but not limited to dust control, maintenance of the drainage diversion structures, maintenance of all leakage control structures and processes, and maintenance of the TSF including appropriate freeboard as specified by this permit or the temporary closure plan.
 - 1.9.5.2 Continue monitoring and reporting activities of all active portions of the site including the FTDS, TSF and surface landfill as specified by this permit or the temporary closure plan.
 - 1.9.5.3 Complete reclamation and corrective action requirements as appropriate under the Reclamation Plan in light of the nature of the closure.

1.10 PERMANENT CLOSURE

- 1.10.1 Updated reclamation and monitoring plans must be submitted for approval within 90 days of the decision that permanent cessation of the mill process will occur. These updates must address current conditions at the facility.
- 1.10.2 Permanent closure of the site must be implemented and completed in accordance with the conditions of this permit and with the Plan of Operations and Reclamation Plan approved by the Department, BLM and ADNR.

1.10.3 Permanent closure of the waste disposal facility will be complete when the following criteria are met:

1.10.3.1 A Department-approved soil cover system is installed on the TSF and FTDS, and, drainage channels are constructed and stable,

1.10.3.2 A vegetative cover as prescribed in section 2.5 of the Reclamation Plan and Cost Estimate or most recent ADEC, BLM and ADNR approved Reclamation Plan.

1.10.3.3 Active water treatment is not required for any water discharged from the facility and water quality criteria contained in the Alaska Water Quality Standards (18 AAC 70) are met in waters discharged from the facility.

1.10.4 Permanent closure must be achieved prior to the cessation of any care and maintenance activities required by section 1.9.5 and the approved temporary closure plan if a period of temporary closures immediately preceded commencement of permanent closure.

1.10.5 The permittee shall maintain the facility, correcting any erosion or settlement of the tailings disposal facilities (TSF or FTDS) that may impair water quality or otherwise threaten the environment, up until the time that this permit, or any successor permit, is transferred to another entity or terminated by the Department.

1.10.6 Post-closure monitoring of the groundwater and visual monitoring for settlement and erosion shall occur according to the sampling schedule set out in the most recent Monitoring Plan approved by the Department. This schedule and the parameters monitored may be modified by the Department, after consultation with the permittee, based on the monitoring results received.

1.11 PROOF OF FINANCIAL RESPONSIBILITY

1.11.1 The permittee shall provide the Department with proof of financial responsibility for closure of the facility and post-closure monitoring. The proof of financial responsibility shall cover costs incurred for closure and post-closure monitoring of the facility, shall cover the activities set out in Section 3, and shall be in the amount shown in Section 3. The area covered by the financial responsibility required in this section is shown on the map attached as section 5.

1.11.2 The Department, in consultation with BLM and ADNR, will review, and modify, if appropriate, the financial responsibility requirements including adjustments for inflation, concurrent reclamation and expansion or other changes to the operation of the facility annually, or during the renewal, modification or amendment of this permit. The permittee shall address the adequacy of the financial responsibility in

the annual report required in section 1.7.1.

- 1.11.3 The proof of financial responsibility may be in the form of a trust fund, surety bond, letter of credit, insurance, or any other mechanism approved by the Department.
- 1.11.4 Approved proof of financial responsibility must remain available through the post-closure period, up to 30 years, and may not be released until the Department certifies in writing that closure of the facility and the required post-closure monitoring have been successfully concluded, or that another entity will assume responsibility for permit compliance and/or post-closure monitoring.
- 1.11.5 It shall be the responsibility of the permittee to provide acceptable proof of financial responsibility. The Department will accept or reject said Offer of Proof as expeditiously as possible, but in no event later than 30 days after its receipt.
- 1.11.6 If the permittee is unable to provide proof of financial responsibility, which is acceptable to the Department and is approved by the Department in writing within the time periods stated above, this permit will expire automatically at that time, notwithstanding any other approvals to the contrary, unless the Department's failure to act is responsible for the delay in accepting or rejecting this proof.
- 1.11.7 If the permittee fails to comply with the terms and conditions of this permit, as written, renewed, modified or amended; and if the Department concludes that such failure may prevent, inhibit or delay satisfactory closure or post-closure monitoring of the disposal facility; then the Department may exercise its rights under the approved mechanism for financial responsibility to access the funds and use them for appropriate closure and post-closure activities.

1.12 FACILITY AUDIT

- 1.12.1 The permittee shall conduct periodic audits for the purpose of reviewing performance under its permits and approvals, and the agencies' regulatory oversight of such performance, and to aid in updating the Reclamation Plan and Cost Estimate – Nixon Fork Mine Project and evaluating the bond amount. The first audit shall occur in 2009, and subsequent audits shall occur every five years after that. Audits shall be timed so that the auditor's site visit can occur during the snow-free season, far enough in advance of the deadline for the permittee's submittal of a Reclamation Plan update that the results of the audit can be taken into account in that update. In January of the audit year, the parties shall confer to discuss the minimum qualifications of and process for selecting an independent, third-party auditor, and the minimum requirements for the scope of the audit. The third party contractor and the scope of the audit should be mutually agreed on by the agencies and the permittee, but in the event that agreement cannot be reached, the agencies retain the final contractor selection and scope of audits decisions. The purpose of the audit will be to determine whether the permittee's

environmental management systems and the regulatory controls in place provide reasonable assurances that environmental objectives in the General Plan of Operations and relevant permits and approvals are being met and that the systems and controls are functioning as intended. The audit results will be used by the permittee and the agencies to assist in updating, renewing, or issuing approvals and permits, in updating policies, plans, and procedures, in determining compliance with permits and approvals, and in evaluating the adequacy of the financial assurance.

The intent of the audits will be to determine if both the facility management and regulatory controls of the facility provide reasonable assurances that the facility and controls are functioning as intended.

The scope of subsequent audits may be revised as mutually agreed upon prior to initiation of each audit, to address specific issues or objectives not previously identified in this permit. Identification of such issues or objectives may be accomplished through a joint permittee/agency meeting prior to the audit.

- 1.12.2 The audit will be an objective, systematic, documented review of the conditions, operations, and practices related to permit requirements and facility management conducted under this permit.

2 GENERAL PERMIT CONDITIONS

2.1 ACCESS AND INSPECTION

The permittee shall allow the Commissioner or his/her representative access to the permitted facility at reasonable times to conduct scheduled or unscheduled inspections or tests to determine compliance with this permit, state laws, and regulations.

2.2 INFORMATION ACCESS

Except where protected from disclosure by applicable State or Federal law, all records and reports submitted in accordance with the terms of this permit shall be available for public inspection at the State of Alaska Department of Environmental Conservation, Fairbanks Office, Fairbanks, Alaska.

2.3 CIVIL AND CRIMINAL LIABILITY

Nothing in this permit shall relieve the permittee from any potential civil or criminal liability for noncompliance with the permit or with applicable laws.

2.4 AVAILABILITY

The permittee shall post or maintain a copy of this permit available to the public at the facility.

2.5 ADVERSE IMPACT

The permittee shall take all necessary means to minimize any adverse impacts to the receiving waters or lands resulting from noncompliance with any limitation specified in this permit, including any additional monitoring needed to determine the nature and impact of the noncomplying activity. The permittee shall cleanup and restore all areas adversely impacted by the noncompliance.

2.6 CULTURAL OR PALEONTOLOGICAL RESOURCES

Should cultural or paleontological resources be discovered as a result of this activity, work, which would disturb such resources, is to be stopped, and the State Historic Preservation Office, Division of Parks and Outdoor Recreation, Department of Natural Resources (907-465-4563), is to be notified promptly.

2.7 APPLICATIONS FOR RENEWAL

In accordance with 18 AAC 15.100(d), applications for renewal or amendment of this permit must be made no later than 30 days before the expiration date of the permit or the planned effective date of the amendment.

2.8 OTHER LEGAL OBLIGATIONS

This permit does not relieve the permittee from the duty to obtain any other necessary permits from the Department or from other local, state, or federal agencies, and to comply with the requirements contained in any such permits. All activities conducted and all plans implemented by the permittee pursuant to the terms of this permit shall comply with applicable local, state, and federal laws and regulations.

2.9 TRANSFER OF OWNERSHIP.

In the event of any change in control or ownership of the permitted facility, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Director of the ADEC Division of Water. The original permittee remains responsible for permit compliance unless and until the succeeding owner or controller agrees in writing to assume such responsibility, and the Department approves assignment of the permit. The Department will not unreasonably withhold such approval.

As between the State and the permittee, no transfer of this permit shall relieve the permittee of any liability arising out of operations conducted prior to such transfer, regardless of whether such liability accrues before or after such transfer.

2.10 POLLUTION PREVENTION

In order to prevent and minimize present and future pollution, when making management decisions that effect waste generation, the permittee shall consider the following order of priority options as outlined in AS 46.06.021:

- waste source reduction,
- recycling of waste,
- waste treatment, and
- waste disposal

3 FINANCIAL RESPONSIBILITY FOR THE NIXON FORK PROJECT CLOSURE, MAINTENANCE AND POST-CLOSURE MONITORING COSTS

Solid waste regulations (18 AAC 60) allow the Department to require proof of financial responsibility for closure of the facility and post-closure monitoring. The total proof of financial responsibility for the life of this permit, unless modified sooner, shall be **\$TBD**. The total financial responsibility includes financial responsibility required by ADEC under 18 AAC 60, the Alaska Department of Natural Resources under Title 11 of the Alaska Administrative Code and the United States Bureau of Land Management required under 43 CFR 3809. The permittee can apply to have the amount of the financial responsibility adjusted during the life of the permit, for example if concurrent reclamation has been completed. The total financial responsibility is based on the following:

| CLOSURE MAINTENANCE ITEM | FINANCIAL RESPONSIBILITY |
|---|--------------------------|
| Direct Costs | |
| <u>Reclamation and Closure Operations and Maintenance</u> | |
| Equipment Capital | \$ |
| Equipment Operation | |
| Manpower | |
| Manpower Support | |
| Revegetation R | |
| Materials, Supp | |
| O & M Subtotal | |
| | |
| Post Closure Monitoring | |
| | |
| Direct Cost Subtotal | |
| | |
| Engineering, Design and | |
| Contingency (TBD% Direct Costs Subtotal) | \$ |
| Contractor Profit (TBD% O&M) | \$ |
| Liability Insurance (1.5% of O&M Manpower) | \$ |
| Payment and Performance Bonus (3% O&M) | \$ |
| BLM Contract Administration (10%O&M) | \$ |
| State Contract Administration (1% Direct Costs Subtotal) | \$ |
| BLM Indirect Costs (21% BLM Contract Admin) | \$ |
| | |
| Indirect Cost Subtotal | \$ |
| | |
| TOTAL | \$² |

The final amounts in this table will be determined after the close of the public comment period based upon: the "Reclamation Plan and Cost Estimate" dated September 2005 and revised October 20, 2005; additional documentation regarding equipment selection, mobilization-demobilization, and the effect of this on project closure costs, as requested by the agencies and committed to in the October 20, 2005 letter from Mystery Creek Resources; and, public comments. The Reclamation Plan and Cost Estimate and the October 20, 2005 letter from Mystery Creek Resources are available at:
www.dnr.state.ak.us/mlw/mining/largemine/nixonfork/index.htm

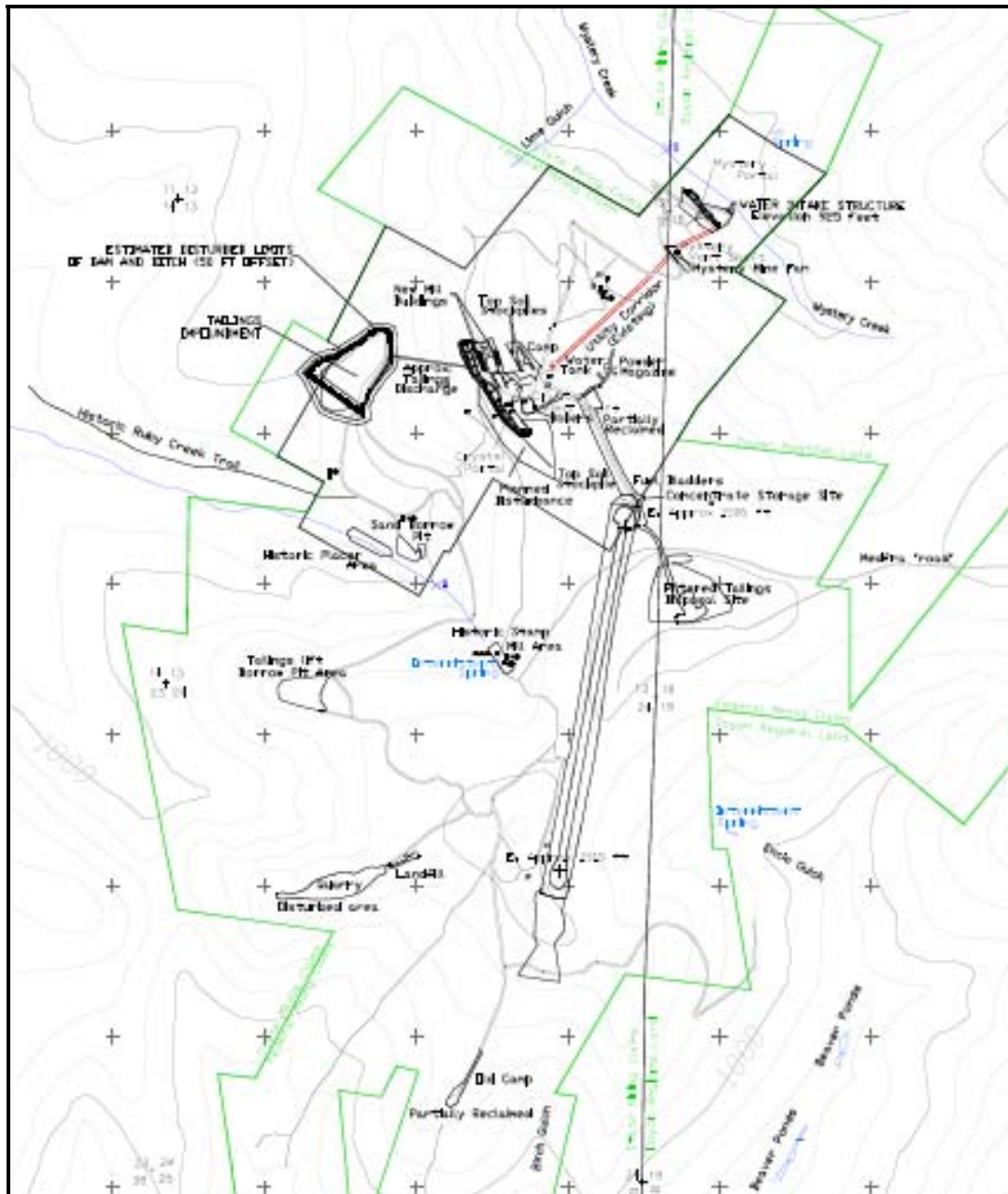
¹ Post closure monitoring costs are based on monitoring costing **\$TBD** per event in years 1, 2, 5, 10, 20 and 30 after closure with 3% annual inflation.

² The financial responsibility will be reevaluated and adjusted as allowed in section 1.11.2 or as requested by the permittee.

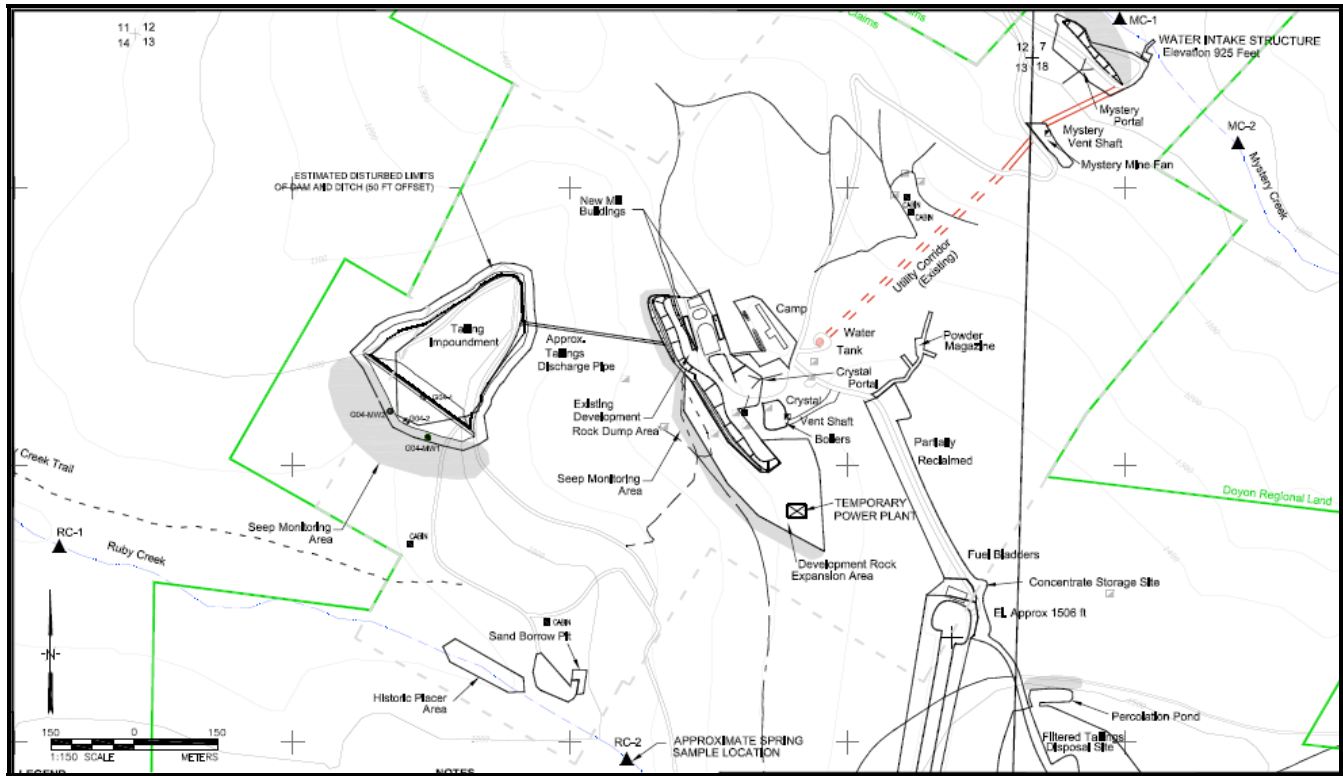
4 GLOSSARY OF TERMS

| | |
|--------|---|
| AAC | Alaska Administrative Code |
| ADEC | Alaska Department of Environmental Conservation |
| ADNR | Alaska Department of Natural Resources |
| BLM | United States Bureau of Land Management |
| CFR | Code of Federal Regulations |
| FTDS | Filtered Tailings Disposal Site |
| MCRI | Mystery Creek Resources Inc. (the permittee) |
| QAPP | Quality Assurance Project Plan |
| SPCC | Spill Prevention Control and Countermeasure |
| TSF | Tailings Storage Facility |
| WAD CN | Weak Acid Dissociable Cyanide |
| WQS | Alaska Water Quality Standards (18 AAC 70) |

5.1 GENERAL MINE AREA MAP



5.2 WASTE DISPOSAL AREA MAP



5.3 FTDS AREA MAP

